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MAR 16 1999

FCC MAIL ROOM

March 15, 1999

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., TWA325
Washington, D.C. 20004

Re: **Television Stations WPTZ and WPTZ-DT, North Pole, New York
Petition for Rulemaking**

Dear Ms. Salas:

Transmitted herewith, on behalf of Hearst-Argyle Stations, Inc., licensee of Television Station WPTZ, North Pole, New York and Television Station WPTZ-DT, North Pole, New York, is an original and four copies of a Petition for Rulemaking requesting a change of community of license.

If any questions should arise during the course of your consideration of this petition, it is respectfully requested that you communicate with this office.

Very truly yours,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

Mark J. Prak
Counsel to Hearst-Argyle Stations, Inc.

MJP:rb

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Before the
Federal Communications Commission
Washington, D.C. 20554

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MAR 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.606(b))
Table of Allotments)
Television Broadcast Stations)
and)
Amendment of Section 73.622(b))
DTV Table of Allotments)
Television Broadcast Stations)
(North Pole and Plattsburgh, NY))

MM Docket No. _____
RM- _____

To: Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING

Hearst-Argyle Stations, Inc. ("Petitioner"), licensee of Television Station WPTZ, North Pole, New York, Channel 5, and Television Station WPTZ-DT, North Pole, New York, Channel 14, by its counsel, hereby petitions the Commission, pursuant to Section 1.420(i) of the Commission's Rules, to specify a new community of license for Station WPTZ and Station WPTZ-DT. Petitioner requests the Commission to amend the Table of NTSC Television Allotments (47 C.F.R. § 73.606(b)) by changing Petitioner's channel allotment from Channel 5, *North Pole*, New York, to Channel 5, *Plattsburgh*, New York, and to modify Petitioner's license accordingly. Petitioner also requests the Commission to amend the DTV Table of Allotments (47 C.F.R. § 73.622(b)) by changing Petitioner's channel allotment from Channel 14, *North Pole*, New York, to Channel 14, *Plattsburgh*, New York, and to modify Petitioner's license

accordingly. As North Pole and Plattsburgh are located in the same “community” within the meaning of Section 307(b) of the Communications Act, grant of this petition will not disturb the Commission’s allotment priorities and policies, and the allotment to Plattsburgh would be mutually exclusive with Petitioner’s present assignment. In support hereof, Petitioner states as follows:

1. Petitioner is the licensee of Television Stations WPTZ, North Pole, New York and WPTZ-DT, North Pole, New York.

2. Pursuant to Section 1.420(i) of the Commission’s Rules, Petitioner hereby respectfully requests the Commission to amend the Table of Allotments by changing Petitioner’s community allotment from North Pole, New York to Plattsburgh, New York.

3. With respect to Petitioner’s NTSC allotment, there are three requirements necessary to obtain a change of community of license pursuant to Section 1.420(i) of the Commission’s rules. First, the new allotment must be mutually exclusive with the existing allotment. Second, the allotment to the new community must better serve the Commission’s allotment priorities and policies than maintaining the allotment to the existing community. Third, the change must not deprive a community of its sole existing broadcast station. See Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Bessemer and Tuscaloosa, Alabama), Report and Order, DA 90-01, 67 Rad. Reg. 2d 474 (1990) [hereinafter Bessemer Order], ¶ 8 n.9.

4. Petitioner does not propose to relocate the transmitter site for Station WPTZ, nor does Petitioner propose to operate the station on a different channel. Thus, Petitioner’s proposal to allot NTSC Channel 5 to Plattsburgh, New York is mutually exclusive with the existing authorization at North Pole. See Amendment of Section 73.606(b), Table of Allotments, TV

Broadcast Stations (San Bernardino and Long Beach, California), Report and Order, DA 98-154 (1998), ¶ 2. The predicted community contour of the station would remain the same and there would be no change in the area or population served by the station. News coverage would not change and neither would the public's ability to access WPTZ's studios with public service messages or projects.

5. Moreover, Petitioner's proposal to change its community of license from North Pole to Plattsburgh is not a proposal to change to a new "community," within the meaning of Section 307(b) of the Communications Act. The Commission has generally recognized that television is a regional service, and therefore has employed an expanded definition of "community" in television assignment cases. See Bessemer Order, ¶ 12. Indeed, as the Court of Appeals for the D.C. Circuit has noted, the term "communities," as used in section 307(b) of the Communications Act is not limited in meaning, but may include metropolitan areas. See Metro Broadcasting, Inc. v. F.C.C., 873 F.2d 347, 351 (1989).

6. North Pole was, in its boom times, a very small village. Over time, the village has shrunk and stores have closed. North Pole does not have its own police or fire department, nor does it have its own newspaper. North Pole's only attraction is "Santa's Workshop" and its post office. In fact, the post office is only open for a few weeks around Christmas to handle letters to "Santa." As the village's name suggests, North Pole is, in essence, a holiday novelty village. North Pole's population, according to the 1990 census, was only 4,656. See U.S. Gazetteer (visited Feb. 4, 1999) <<http://www.census.gov/cgi-bin/gazetteer?city=&state=&zip=12946>> (see Attachment A). It is likely that this population figure has decreased as the small village now has only four houses near its main intersection. North Pole is actually part of the same community as Plattsburgh. The two towns are only at most thirty miles apart and are

both located in the Burlington-Plattsburgh Designated Market Area (DMA). See Television & Cable FactBook A-792 (vol. 66, 1998) (see Attachment B). Indeed, the few people who still reside in North Pole shop in Plattsburgh, seek medical help in Plattsburgh, do their banking in Plattsburgh, and generally come to Plattsburgh for almost everything. Not one of WPTZ's employees actually lives in, or near North Pole. Thus, under the broad definition of "communities," as used in section 307(b) of the Communications Act, North Pole and Plattsburgh are in the same community. For this reason, the second and third requirements to change a station's community of license are satisfied. There is no "new" community and no "deprived" community in the Petitioner's proposal.

7. Since the criteria for changing Petitioner's community of license are satisfied with respect to the Table of NTSC Allotments, the DTV Table of Allotments should also be amended to show Plattsburgh as Petitioner's allotted community. Petitioner is not requesting a change in the channel of its DTV allotment pursuant to section 73.622, and thus it is not necessary to show compliance with technical criteria set forth in section 73.636(c). As with Petitioner's NTSC channel, Petitioner is not proposing to operate Station WPTZ-DT on another channel or proposing to relocate its digital transmitter facilities. As with other television licensees, the Petitioner has a parallel license covering its community for NTSC and digital operations. Since the criteria for amending the Table of NTSC Allotments are satisfied, the Commission should likewise amend the DTV Table of Allotments to be in conformity therewith.

Conclusion

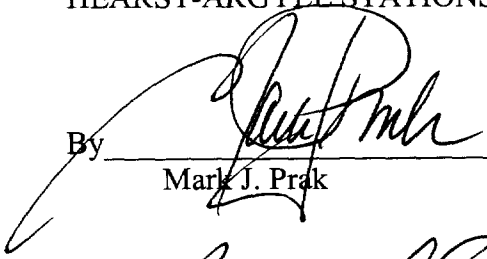
For the foregoing reasons, Petitioner respectfully requests that the Commission grant the instant petition and (1) amend the Table of NTSC Television Allotments, Section 73.606(b) of

the Commission's Rules, by changing the community of license of Channel 5, *North Pole*, New York to Channel 5, *Plattsburgh*, New York; and (2) amend the DTV Table of Allotments (47 C.F.R. § 73.622(b)) by changing the community of license of Channel 14, *North Pole*, New York, to Channel 14, *Plattsburgh*, New York. Petitioner also respectfully requests that the Commission modify Petitioner's license accordingly.

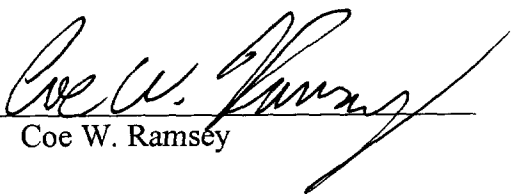
Respectfully submitted,

HEARST-ARGYLE STATIONS, INC

By


Mark J. Prak

By


Coe W. Ramsey

Counsel to Hearst-Argyle Stations, Inc.

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March 15, 1999

ATTACHMENT A

U.S. Census Bureau

U.S. Gazetteer

Select one of the following matches to your query to look at that place in the Tiger Map Browser or retrieve 1990 Census tables.

You can search this index. Type the keyword(s) you want to search for:

- **Zip Code: 12946** PO Name: North Pole (NY)
Population (1990): 4656
Location: 44.274986 N, 73.986354 W
Browse Tiger [Map](#) of area.
Lookup 1990 Census zipcode data from [STF3B](#).

*Note: This dataset is derived from the Census GICS and does not contain unincorporated place names.

For other geographic entities, try searching the [USGS Geographic Names Information System](#).
The [US Gazetteer Place and Zipcode files](#) used in this service is available for downloading.

For additional information, comments and suggestions, see the [Feedback](#) page.

ATTACHMENT B

New York—Plattsburgh

WPTZ

Ch. 5

(Operates satellite WNNE, Hartford, VT-Hanover, NH)

Network Service: NBC.

Licensee: Heritage Media Inc., 13355 Noel Rd., Dallas, TX 75240.

Studios: 5 Television Dr., Plattsburgh, NY 12901; 45 Roosevelt Hwy., Colchester, VT 05446.

Phones: 518-561-5555; 802-862-8817. **Fax:** 518-561-5940.

Technical Facilities: Channel No. 5 (76-82 MHz). Authorized power: 25.1-kw visual, 4.27-kw aural. Antenna: 1990-ft. above av. terrain, 977-ft. above ground, 3052-ft. above sea level.

Latitude 44° 34' 26"
Longitude 73° 40' 29"

Transmitter: Terry Mountain.

FCC Proposed Digital Facilities: Ch. 14, 206.5-kw, 1991-ft. above av. terrain.

Multichannel TV Sound: Stereo only.

Satellite Earth Station: ADM, 6.1-meter; Scientific-Atlanta receivers.

News Service: AP.

Ownership: Heritage Media Corp. (Group Owner).

Began Operation: December 8, 1954. Merger of Rollins Communications with Heritage Communications approved by FCC February 9, 1987 (*Television Digest*, Vol. 26:20, 23). Sale to Rollins Communications by Carl F. Stohn group approved March 28, 1956 by FCC (Vol. 12:7, 13). Sale pending to Sinclair Bcstg. Group (Vol. 37:29).

Represented (sales): Petry Television Inc.; Airtime Television Sales Inc. (Canada).

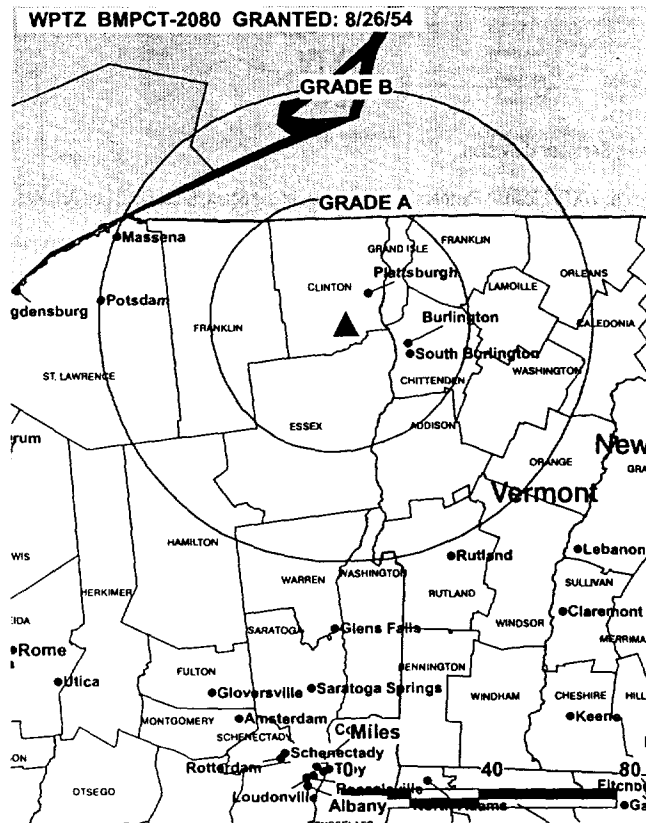
Represented (legal): Akin, Gump, Strauss, Hauer & Feld LLP.

Personnel:

Bob Shields, President & General Manager.
F. Semler Dieterich, General Sales Manager.
James Langton, Local Sales Manager.
Cece Wick, New England Sales Manager.
Joe Krone, Operations Manager.
Tom Bradshaw, Chief Engineer.
Stewart Ledbetter, News Director.
James Gratton, Production & Public Service Manager.
Dick Roberts, Promotion Manager.

Rates: On request.

City of License: North Pole. **Station DMA:** Burlington-Plattsburgh. **Rank:** 91.



Circulation © 1997 Nielsen. Coverage based on Nielsen study

Grand Total	Cable TV Households	Non-cable TV Households	Total TV Households
Estimated Station Totals*	170,240	99,790	270,030
Average Weekly Circulation (1997)	123,399	45,494	168,893
Average Daily Circulation (1997)			100,049
Station DMA Total	Cable TV Households	Non-cable TV Households	Total TV Households
Estimated Station Totals*	142,510	78,840	221,350
Average Weekly Circulation (1997)	109,174	43,954	153,128
Average Daily Circulation (1997)			92,513
Other DMA Total	Cable TV Households	Non-cable TV Households	Total TV Households
Estimated Station Totals*	27,730	20,950	48,680
Average Weekly Circulation (1997)	14,225	1,540	15,765
Average Daily Circulation (1997)			7,536

*Estimated station totals are sums of the Nielsen TV and Cable TV household estimates for each county in which the station registers viewing of more than 5% as per the Nielsen Survey Methods.